htv

FILED

08 JUN 12 AM 9:32

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 1823

UNITED STATES OF AMERICA,	)	Magistrate Case No.
Plaintiff,	)	
	)	COMPLAINT FOR VIOLATION OF:
v.	)	
	)	Title 8, U.S.C., Section 1326;
Geronimo ALVAREZ-Encizo	)	Deported Alien Found in the
	)	United States
	)	
Defendant.	)	

The undersigned complainant, being duly sworn, states:

On or about, **February 16, 2008**, within the Southern District of California, defendant, **Geronimo ALVAREZ-Encizo**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Immigration Enforcement Agent
Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **12th** DAY OF **June 2008.**

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

On February 16, 2008, the defendant identified as, Geronimo ALVAREZ-Encizo, was apprehended by the United States Border Patrol near San Ysidro, California. Record checks revealed that defendant had an active warrant, and was referred to the custody of the San Diego Sheriff's Department and booked into San Diego Central Jail for violation of Penal Code 1203.2 "PROBATION VIOLATION". On February 16, 2008, an Agent with the United States Border Patrol determined the defendant to be a citizen of Mexico and placed a Form I-247 "Immigration Detainer" pending his release from state custody. On June 11, 2008 the defendant was referred to the custody of the United States Immigration and Customs Enforcement (ICE). A Deportation Officer conducted official record checks in regards to the defendant, and confirmed him to be a citizen of Mexico having been previously removed from the United States.

A thorough review of official immigration computer database record checks and information contained in the Alien Registration file revealed that the defendant was most recently ordered removed from the United States by an Immigration Judge on or about April 23, 1998 and physically removed to Mexico on or about April 23, 1998 via the Otay Mesa Port of Entry. Record checks and statements made by the defendant further indicate that he has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The Automated Biometric Fingerprint Identification System "IDENT" and Automated Fingerprint Identification System "IAFIS" were utilized and compared the defendant's fingerprints to those contained in this database. The results confirmed the defendant's identity as Geronimo ALVAREZ-Encizo, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.

The defendant was admonished as to his rights per "MIRANDA" in the English language at approximately 10:27 a.m. The defendant acknowledged his rights per "MIRANDA", waived those rights and elected to answer questions without counsel present. The defendant admitted that he is a citizen of Mexico by virtue of birth, was deported or removed from the United States to Mexico and had not obtained a waiver in order to re-enter the United States. The defendant admitted that he unlawfully entered the United States on an unknown date in February 2008, by walking, near San Ysidro, California. The defendant admitted that he has no legal right to enter or reside in the United States.